IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11096 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KAMAL MUKESHBHAI KAHAR

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR SAMIR DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/02/2001

ORAL JUDGEMENT

#. This petition deserves to be allowed only on one ground it is not necessary to go into the details, facts as well as to make reference to all those contentions raised by the learned counsel for the petitioner.

#. Challenge has been made by the petitioner to the order of Commissioner of Police, Surat dated 29.9.2000. Under this order the petitioner was ordered to be detained as a bootlegger. One of the contentions raised that the copies of statements of the witnesses recorded under Section 161 of the Criminal Procedure Code in the criminal complaints which are made ground for the petitioner's detention under Gujarat Prevention of Anti-Social Activities Act, 1985 were not supplied to the petitioner. As a result of which the petitioner has been deprived of his right to make effective representation in this matter against the detention order. This factual aspect has not been controverted by the learned counsel for the respondents. The learned counsel for the respondents fairly conceded that copies of the statements of witnesses recorded under Section 161 of the Cr.P.C. are not supplied to the petitioner. Thus the petitioner has been deprived of his valuable right to make effective representation against the detention order, the right which is guaranteed to him under Article 22(5) of the Constitution of India.

In the result, the Special Civil Application succeeds and the same is allowed. The order of detention of the petitioner dated 27.9.2000 is quashed and set aside. The petitioner Kamal Mukeshbhai Kahar, the detenu, at present in Jamnagar Jail, Jamnagar be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. As the learned counsel for the respondents has come with all fairness no order as to costs.

(S.K.Keshote, J.)

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